

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:09-CR-216-FL-7

UNITED STATES OF AMERICA)	
)	GOVERNMENT'S RESPONSE TO
v.)	DEFENDANT'S FOURTH MOTION
)	TO TAKE FOREIGN DEPOSITIONS
ZIYAD YAGHI)	
Defendant.)	

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby responds to defendant Yaghi's Fourth Motion to Take Depositions in a Foreign Country, and states unto the Court the following:

1. The Government has previously agreed that defendant YAGHI has met the burdens under Fed. R. Crim. P 15 for the taking of the deposition as set forth in his Fourth Motion. See, D.E. 534.

2. Since the filing of defendant's Fourth Motion, the parties have discussed their mutual interest in the taking of the deposition by video, with counsel for both sides present here in the United States, and the witness located in his home country. This was presented as alternate relief by defendant in his Fourth Motion to take a Foreign Deposition. While such procedure would still need the involvement of the Department of State and the coordination of the Jordanian Embassy, the parties will seek confirmation of availability and approval for such deposition to occur.

3. To this end, the Government joins in defendant's request for a 90 day extension of time in which to take the described deposition.

4. Further, the Government requests the Court hold the remainder of defendant's Motion in abeyance, until the availability and arrangements of a video deposition can be confirmed by the parties. At that time, then, the motion can be finally concluded.

Respectfully submitted this 21st day of February, 2011.

GEORGE E. B. HOLDING
United States Attorney

BY:/s/Barbara D. Kocher
JOHN S. BOWLER
BARBARA D. KOCHER
Assistant U.S. Attorneys
310 New Bern Avenue, Suite 800
Raleigh, NC 27601
Tel: 919-856-4530
Fax: 919-856-4487
Email: john.s.bowler@usdoj.gov
State Bar No. 18825
Email: barb.kocher@usdoj.gov
State Bar No. 16360

/s/ Jason Kellhofer
JASON KELLHOFER
Trial Attorney
U.S. Department of Justice
National Security Division
Counter-Terrorism Section
10th St. And Penn. Ave., N.W.
Room 2740
Washington, DC 20530
Tel: (202) 353-7371
Fax: (202) 353-0778
Email:
jason.kellhofer@usdoj.gov
OH Bar No. 0074736

CERTIFICATE OF SERVICE

This is to certify that I have this 21st day of February, 2011, served a copy of the foregoing upon counsel for the defendants in this action by electronically filing the foregoing with the Clerk of Court, using the CM/ECF system which will send notification of such filing to:

Debra C. Graves
F.P.D.
150 Fayetteville St. Mall
Suite 450
Raleigh , NC 27601-8005

Rosemary Godwin
Federal Public Defender
150 Fayetteville St. Mall
Suite 450
Raleigh , NC 27601-2919

Robert J. McAfee
McAfee Law, P.A.
P. O. Box 905
New Bern , NC 28563

Paul Sun
P.O. Box 33550
Raleigh, NC 27636

R. Daniel Boyce
Boyce & Isley, PLLC
P. O. Box 1990
Raleigh , NC 27602-1990

James M. Ayers, II
307 Metcalf Street
Post Office Box 1544
New Bern, North Carolina 28563

Myron T. Hill , Jr.
Browning & Hill
200 E. Fourth St.
Greenville , NC 27835

Joseph E. Zeszotarski, Jr.
Poyner & Spruill
PO Box 1801
Raleigh, NC 27602

/s/ Barbara D. Kocher
BY: BARBARA D. KOCHER
Assistant United States Attorney
310 New Bern Avenue, Suite 800
Raleigh, NC 27601
Telephone: 919-856-4530
Fax: 919-856-4828
E-mail: barb.kocher@usdoj.gov
State Bar No. 16360